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In re Application of
Mark Dillon
Serial No.: 09/754,010

Filed: 01/03/01

For: NOVEL WOUND DRESSING, PROCESS OF MANUFACTURE
AND USEFUL ARTICLES THEREOF

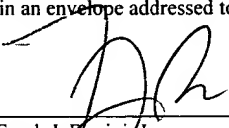
Examiner: Sharmila S. Gollamundi
Art Unit: 1616
Conf. no. 3438

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

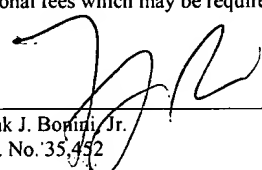
I hereby certify that this correspondence and the documents referred to as attached therein are being deposited today with the United States Postal Service as first-class, postage-prepaid mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, Alexandria, VA 22313-1450.

12/23/04
Date


Frank J. Bonini, Jr.
Reg. No. 35,452

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper and during the pendency of this application to Account No. 05-0208.


Frank J. Bonini, Jr.
Reg. No. 35,452

Dear Commissioner:

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY**

This is a Petition to Revive the above captioned patent application which was unintentionally abandoned. Accompanying the Petition is a Request for Continued Examination (RCE) Transmittal, along with the required statement, set forth herein, and required fees.

12/28/2004 AWONDAF1 00000002 050208 09754010

02 FC:2453 65.00 DA 685.00 OP

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REMARKS

The entire delay in filing the required reply (the RCE) from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and an explanation of the circumstances is set forth below.

The application was unintentionally abandoned. Applicant's representative last spoke to the Examiner on March 15, 2004. (Exhibit 1) The representative was waiting to receive the Notice of Abandonment so that the instant petition could be made. In prosecuting a related foreign case in December of 2004, the current file was consulted. A status inquiry was made, as no Notice was in the file. (The last correspondence in the file from the USPTO was a June 2, 2003 Office Action, and the last communication was the phone note, Exhibit 1.) The status inquiry revealed a Notice of Abandonment was issued on March 24, 2004, but never received by the law firm. This Petition was immediately prepared and filed upon learning of the status.

The circumstances leading to the unintentional abandonment are as follows. On June 27, 2003, Applicant's representative submitted, by mailing by first class mail using the certificate of mailing procedure, a response to the June 2, 2003 Advisory Action. The response apparently did not make its way to the file at the USPTO. Applicant's representative did not learn of this until October of 2003. Upon learning from the USPTO that the response had not been received, the response was subsequently resent to the Examiner, by facsimile, on October 31, 2003. The Examiner indicated receipt of the resent paper, and that it would be considered. Nothing was heard by Applicant's representative until March of 2003, when Applicant's representative received a phone call from the Examiner. (Exhibit 1) No papers had been received by Applicant's

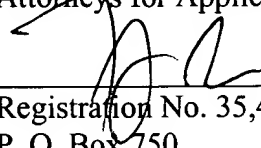
representative. From the phone conversation with the Examiner on March 15, 2003, the applicant's representative learned that the Examiner apparently had responded to Applicant's resent paper. However, the response, a second advisory action was never received by applicant's representative.

Other circumstances relating to the delay, were that the response date was re-docketed on the firm's docket records from the June 2, 2003 Office Action date, and not the February 21, 2003 final action date. Thus although the USPTO considered the response, the period for an appeal or other action to maintain the application's pendency had passed. This was unintentional.

These circumstances resulted in the application being unintentionally abandoned, and the necessity for this Petition.

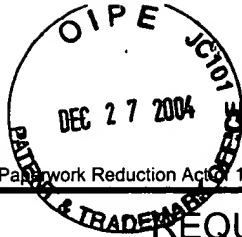
Applicant respectfully requests that the Petition be granted, and that the above captioned patent application be revived. A copy of a Request for Continued Examination of the application along with the required fees are enclosed with this Petition.

Respectfully submitted,
Frank J. Bonini, Jr.
HARDING, EARLEY, FOLLMER & FRAILEY
Attorneys for Applicant



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Date: 12/23/84



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**REQUEST
FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**Address to:
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Alexandria, VA 22313-1450

Application Number	09/754,010
Filing Date	01/03/2001
First Named Inventor	Mark E. Dillon
Art Unit	1616
Examiner Name	Sharmila S. Gollamudi
Attorney Docket Number	E-1950

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply iii. ☐ Information Disclosure Statement (IDS)
- ii. ☐ Affidavit(s)/Declaration(s) iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. **05-0208**
- i. ☒ RCE fee required under 37 CFR 1.17(e) 12/28/2004 AWONDAF1 00000002 050208 09754010
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:2801 395.00 0P
- iii. ☐ Other _____
- b. ☒ Check in the amount of \$ **395.00** enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print / Type)	Frank J. Bonini, Jr.	Registration No. (Attorney / Agent)	35,452
Signature		Date	12/23/04

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print / Type)	Frank J. Bonini, Jr.	Date	12/23/04
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Instruction Sheet for RCEs

(not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:

Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

Request for Suspension of Action:

All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.



phone from EX. Gollamudi

Biomed
E-1950
3-15-04

- she mailed out 11/24/03 Advisory Action - it isn't in the file
- she will send me a copy
- amendment was entered
- we will revive & she invites us to call her for an interview when case is revived,
- she will send out notice of Abandonment shortly.



Application Serial No. 09/754,010
Response dated: June 27, 2003
Reply to final Office Action of February 21, 2003

E-1950

In re Application of
MARK E. DILLON
Serial No. 09/754,010
Filed: 01/03/01
For: NOVEL WOUND DRESSING, PROCESS OF MANUFACTURE AND USEFUL
ARTICLES THEREOF

Examiner: Sharmila S. Gollamudi
Art Unit: 1616

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P.O. Box 1450
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Date:

6/27/03

Frank J. Bonini, Jr.
Reg. No.: 35,452

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The Commissioner is hereby authorized to charge any additional fees which may be required by this paper and during this pendency of this application to Account 05-0208.

Date:

6/27/03

Frank J. Bonini, Jr.
Reg. No.: 35,452

AMENDMENT

This is in response to the final Official Action dated February 21, 2003, and
Advisory Action of June 2, 2003. Please amend the application as follows:

AMENDMENTS TO THE CLAIMS begin on page 2 of this paper.

REMARKS begin on page 6 of this paper.

This listing of claims will replace all prior versions, and listings of claims in the application:

LISTING OF CLAIMS

Claims 1-17 (Previously canceled).

Claim 18. (Three times amended) A composite article for use as a wound dressing, said article comprising:

a first layer having a first surface; and

a second layer having a second surface;

wherein said first surface and said second surface each have disparate properties for wound healing,

wherein said at least one second layer comprises a foam layer,

said dressing first surface and second surface comprising two different wound-contacting surfaces so as to provide disparate wound healing characteristics depending on which of the first surface and second surface of the dressing is placed in contact with the wound.

Claim 19. (Three times amended) A composite article for use as a wound dressing, said article comprising:

at least one first layer of material; and

at least one second layer of material bonded with said first layer of material;

wherein said at least one first layer of material forms a first surface of said article;

wherein said at least one second layer of material forms a second surface of said article; and

wherein said first surface and said second surface each have disparate properties for wound healing,

wherein said at least one second layer comprises a foam layer,

said dressing first surface and second surface comprising two different wound-contacting surfaces so as to provide disparate wound healing characteristics depending on which of the first surface and second surface of the dressing is placed in contact with the wound.

Claim 20 (Original) The composite article of claim 19, further comprising a bonding agent for bonding said at least one first layer of material to said at least one second layer of material.

Claim 21 (Original) The composite article of claim 20, wherein said bonding agent comprises a silicone compound.

Claim 22 (Original) The composite article of claim 19, wherein said at least one first layer comprises at least one membrane layer.

Claim 23 (Original) The composite article of claim 19, wherein said at least one first layer comprises a silicone-containing compound.

Claim 24. (Canceled)

Claim 25. (Currently amended) The composite article of claim 19 [24], wherein said foam layer comprises polyurethane.

Claim 26. (Original) The composite article of claim 23, wherein said silicone-containing compound comprises an interpenetrating polymer network of polytetrafluoroethylene and silicone.

Claim 27. (Canceled)

Claim 28. (Previously canceled).

Claim 29. (Currently amended) The composite article of claim 19 [24], wherein said foam layer comprises polyurethane.

Claim 30. (Original) The composite article of claim 19, further comprising a pigment associated with at least one of said at least one first layer and said at least one second layer for distinguishing at least one of said at least one first layer and said at least one second layer from the other.

Claim 31. (Original) The composite article of claim 19, wherein said at least one first layer comprises a substantially transparent material, and wherein said at least one second layer comprises a substantially opaque material, said composite article further comprising a pigment for imparting a discernable color to said at least one first layer of material.

Claim 32. (Original) The composite article of claim 20, further comprising a

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pigment; wherein said bonding agent comprises a silicone-containing compound, and wherein said pigment is added to said silicone containing compound.

Claim 33. (Original) The composite article of claim 19, wherein said at least one first layer comprises a polymer film with fenestrations therein.

REMARKS

Claims 18-23, 25-26 and 29-33 are pending in the application.

Reconsideration and withdrawal the Examiner's rejections are hereby respectfully requested in view of the following remarks.

The Examiner has considered the applicant's positions in view of the amendments and has issued an advisory action. Applicant has reviewed the advisory action and has amended claim 18 to more clearly and particularly articulate the applicant's present invention.

Claim 18 has been amended to recite that the composite article has a first layer having a first surface; and a second layer having a second surface. Claims 18 and 19 have been amended to recite that the *at least one second layer comprises a foam layer*.

First, claim 18 is distinguishable over the Lang reference, which the Examiner contends has a layer having discrete raised areas and recesses, which could therefore have different wound-contacting points. Applicant's invention, as recited in amended claim 18, above, specifies a first layer having a first surface and a second layer having a second surface. The Lang reference would not provide, as the applicant's invention does, a first surface on a first layer and a second surface on a second layer. Rather, Lang is cited by the Examiner to teach an apertured layer having discrete

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Reply to final Office Action of February 21, 2003

raised areas and recesses. Lang does not therefore appear to teach, suggest or disclose the applicant's composite where a first surface is provided on a first layer, a second surface is provided on a second layer, and the first surface and second surface comprising two different wound-contacting surfaces so as to provide disparate wound healing characteristics.

Accordingly, the Examiner's rejection of claim 18, with respect to Lang should be withdrawn.

Claim 19 recites "at least one first layer of material; and at least one second layer of material *bonded with said first layer of material*; wherein said at least one *first layer of material forms a first surface* of said article; wherein said at least one *second layer of material forms a second surface* of said article; and wherein said first surface and said second surface each have disparate properties for wound healing. Claim 19 therefore recites two layers of material, i.e., a first layer and a second layer. Once more, the first layer forms a first surface with wound healing properties which are disparate from the second surface formed by the second layer of material.

Claim 19 therefore is not taught, suggested or disclosed by Lang.

In addition, claims 18 and 19 have been amended to recite that the second layer comprises a foam layer.

The Examiner has also asserted that Lorenz reads on the present invention. This rejection is respectfully traversed in view of the above amendments. The

Examiner contends that any article with two different surfaces made out of different material would have different healing characteristics. However, applicant notes that some surfaces may be antagonistic to healing, and therefore would not be a healing characteristic. Applicant has recited a healing characteristic, not a merely a different effect. The Examiner refers to the other side of the Lorenz bandage as having a healing characteristic.

Applicant's claims 18 and 19 as amended, recite that the second layer comprises a foam layer. Applicant is unable to find a teaching or disclosure of two disparate healing layers with two different surfaces, where one of the surface layers is a foam layer, as called for by claims 18 and 19. Both Lang and Lorenz are believed to be deficient of such a teaching or disclosure. Lang discloses an absorbent foam (21) which is an "intermediate" layer (see col. 7 lines 64-66). The Lang medicated dressing is disclosed with a moisture vapor transmitting film (22) and a conformable apertured net (23) as the wound facing layer, with an intermediate layer (21). Lang therefore, fails to teach, suggest or disclose the applicant's claimed invention where a foam layer is claimed as the second surface layer having one healing characteristic and a first layer is provided having a different healing characteristic. Lorenz also fails to disclose or suggest the applicant's present invention. Lorenz provides a method for making tacky, hydrophilic gel dressings, but does not appear to provide a foam layer as a second layer which forms a surface of the article and has wound

healing characteristics different from the first surface.

For the above reasons, applicant submits that the present invention should be patentable, and seeks reconsideration and a withdrawal of the Examiner's rejections.

Applicant further points out that the dependent claims recite specific features of the present invention, which include a description of the surfaces which applicant submits do distinguish the surfaces over the cited prior art.

Claim 20 calls for a bonding agent, and claim 21 defines the bonding agent as a silicone compound.

Claim 22 recites that the one first layer comprises at least one membrane layer, and claim 23 specifies the first layer as a silicone-containing compound.

Claim 26 recites the first layer is a silicone-containing compound comprising an interpenetrating polymer network of polytetrafluoroethylene and silicone.

Claim 29 recites that the foam layer comprises polyurethane.

Claim 30 recites a pigment associated with at least one of said at least one first layer and the second foam layer for distinguishing the layers from one another.

Claim 31 recites that the at least one first layer comprises a substantially transparent material, and that the second foam layer comprises a substantially opaque material, and that the composite article includes a pigment for imparting a discernable color to one of the layers. Claim 32 also provides for a pigment, and calls for a silicone-containing bonding compound to which pigment is added.

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Claim 33 features a polymer film first layer with fenestrations therein.

The above features serve to further distinguish the applicant's present invention over the cited prior art references relied on by the Examiner.

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E-1950

CONCLUSION

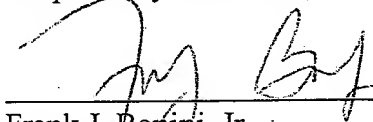
For the reasons set forth above applicant respectfully requests reconsideration and a withdrawal of the Examiner's rejections. Early allowance of the pending claims is earnestly solicited.

If further matters remain in connection with this response, the Examiner is invited to telephone the Applicant's undersigned representative to discuss them.

In the event that an extension of time, or further extension of time is necessary, in order for this response to be timely filed, Applicant hereby respectfully requests that this be considered a petition for the necessary extension of time.

The Commissioner is authorized to charge any additional fees, including extension fees, which may be required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,



Frank J. Bonini, Jr.
Harding, Earley, Follmer & Frailey
Attorneys for Applicant
Registration No. 35,452
P.O. Box 750
Valley Forge, PA 19482-0750
Telephone: 610/935-2300

Date: _____

6/27/03

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